

OCT 23 2008

DAVID J. WILKINS, CLERK  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

UNITED STATES OF AMERICA

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CASE NO. 4:04CR92(11)

v.

REX LEVON WILKINS

**REPORT AND RECOMMENDATION  
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 14, 2008 to determine whether the Defendant violated his supervised release. At that hearing, the Court found that the conditions of Defendant's supervision should be modified as set forth below.

On June 15, 2005, the Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to twenty one (21) months imprisonment, followed by a three (3) year term of supervised release for the offense of Conspiracy to Manufacture, Distribute or Possess with Intent to Manufacture, Distribute or Dispense Methamphetamine. On March 9, 2007, the Defendant began service of his supervised term.

On August 7, 2008, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (Dkt.576). The petition asserted that Defendant violated the following conditions: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except

as prescribed by a physician; and (3) Defendant shall refrain from any unlawful use of a controlled substance, and Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The petition alleged that Defendant committed the following violations: (1) on June 28, 2007, Defendant was arrested for Driving While Intoxicated in Lamar County, Texas, on January 4, 2008, Defendant pled guilty and was sentenced to 30 days in jail, and Defendant was arrested against for Driving While Intoxicated on March 15, 2008; and (2) on October 30, 2007, Defendant submitted a urine specimen which tested positive for marijuana.

Having heard the evidence and arguments of both the Government and Defendant, the Court recommended that Defendant's supervised release be modified rather than revoked.

#### **RECOMMENDATION**

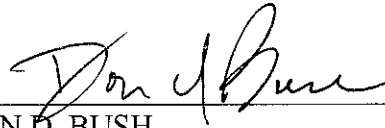
The Court recommended that Defendant's supervised release be modified as follows: Defendant shall be placed on home detention for a period not to exceed 180 days, to commence immediately on the date of the revocation hearing. During this time, Defendant shall remain at his place of residence except for employment and other activities approved in advance by the U.S. Probation Officer. Defendant shall maintain a telephone at his place of residence without "call forwarding", "a modem", "Caller I.D.", "call waiting", or portable cordless telephones for the above period. At the direction of the probation officer, Defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer. Defendant is to pay the cost associated with his program of electronic monitoring.

Additionally, Defendant shall abstain from the use of alcohol and all other intoxicants during the term of supervision.

Defendant shall not obtain a valid driver's license during the term of supervision.

Defendant shall not operate a motorized vehicle during the term of supervision.

SIGNED this 10 day of Oct, 2008.

A handwritten signature in cursive script, appearing to read "Don D. Bush", written over a horizontal line.

DON D. BUSH

UNITED STATES MAGISTRATE JUDGE